

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PETER C. RIZZO,

Plaintiff,

v.

Index No.: 1:23-cv-00406

CLOVER GROUP, INC.,
CLOVER MANAGEMENT, INC.,
CLOVER CONSTRUCTION MANAGEMENT, INC.,
CLOVER CONSTRUCTION MANAGEMENT WEST
CORP.,
THE CARLYLE GROUP,
CARLYLE CLOVER PARTNERS, L.P.,
CARLYLE CLOVER PARTNERS 2, L.P.,
WELLTOWER, INC.,
WELL IBIS PORTFOLIO MEMBER, LLC,
WELLCLOVER VENUTRES, LLC,
WELLCLOVER HOLDINGS, LLC,
CLOVER COMMUNITIES FUND I, L.P.,
CLOVER COMMUNITIES FUND II, L.P.,
CLOVER COMMUNITIES FUND III, L.P.,
CLOVER COMMUNITIES FUND IV, L.P.,
CLOVER COMMUNITIES FUND V, L.P.,
CLOVER COMMUNITIES FUND V, LLC,
MICHAEL L. JOSEPH,
ALLISON H. JOSEPH PENDLETON,
RICHARD A. GREENSPAN,
ROBERT D. JACK, and
EMILY BRADY,

Defendants.

NOTICE OF MOTION TO FILE DOCUMENTS UNDER SEAL

Nature of Action:

Alleged violation of Fair Housing Act and employment
retaliation claims.

Moving Party: Defendants Clover Communities Fund IV, L.P. and Clover Communities V, L.P. (“Defendants”).

Directed To: Plaintiff Peter C. Rizzo.

Date and Time: To be determined by the Court.

Place: United States District Court Western District of New York, Buffalo Division, 2 Niagara Square, Buffalo, New York 14202.

Supporting Papers: Memorandum of Law, dated September 6, 2023, Declaration of Alexandria N. Rowen, with Exhibits, dated September 6, 2023.

Answering Papers: Pursuant to Local Rule 7(b) are due within 14 days or as otherwise directed by the Court. Defendants intend to file and serve a reply.

Relief Requested: An Order: (1) directing that the non-redacted FRCP 7.1 & General Order 157 Disclosure Statements of Defendants Clover Communities Fund IV, L.P. and Clover Communities Fund V, L.P. be filed under seal; (2) directing the Clerk not to permit inspection of the sealed FRCP 7.1 & General Order 157 Disclosure Statements of Defendants Clover Communities Fund IV, L.P. and Clover Communities Fund V, L.P. by the Plaintiff, their counsel, or anyone else, unless directed by the Court; and (3) authorizing Defendant Clover Communities Fund IV, L.P. and Clover Communities Fund V, L.P. to separately file their FRCP 7.1 & General Order 157 Disclosure Statements electronically on the public docket in redacted form so as to conceal the identities of their respective limited partners; and (4) whatever further and other relief the Court deems just and equitable.

Grounds for Relief: Federal Rule of Civil Procedure 5.2; Local Rules 5.2(f)(3), 5.3; W.D.N.Y. Administrative Procedures Guide. Plaintiffs’ counsel has repeatedly targeted non-parties through disparaging and false social media posts and other harassment in connection with this and at least one other pending legal action. Given these circumstances, Defendants have a well-grounded fear that disclosing their limited partners through their W.D.N.Y. General Order # 157 Disclosure Statements could subject these non-parties — who are not alleged to have any involvement with any conduct alleged in the Complaint — to annoyance, embarrassment, and oppression. To mitigate

this substantial risk, the Court should therefore order Defendants' un-redacted General Order # 157 Disclosure Statements to be filed under seal and prohibit their dissemination to any person other than the Court.

Oral Argument: Requested.

Dated: September 6, 2023

HODGSON RUSS LLP
Attorneys for Defendants

By: s/ Alexandria N. Rowen
Adam W. Perry
Joshua Feinstein
Alexandria N. Rowen
The Guaranty Building
140 Pearl Street, Suite 100
Buffalo, New York 14202-4040
Telephone: (716) 856-4000

TO: **ADVOCATES FOR JUSTICE, CHARTERED ATTORNEYS**
Attorneys for Plaintiff
Nathan D. McMurray, Esq.
225 Broadway, Suite 225
New York, New York 10007
(212) 285-1400

CC: **HARRIS BEACH LLP**
*Attorneys for The Carlyle Group, Carlyle Clover Partners, L.P.
and Carlyle Clover Partners 2, L.P.*
Daniel J. Moore, Esq.
99 Garnsey Road
Pittsford, New York 14534
(585) 419-8626

GIBSON, DUNN & CRUTCHER, LLP
*Attorneys for Welltower, Inc., Well Ibis Portfolio Member, LLC,
Wellclover Venutres, LLC, and Wellclover Holdings, LLC*
Timothy Sun, Esq.
200 Park Avenue
New York, New York 10166-0193
(212) 351-2401

LIPSITZ GREEN SCIME CAMBRIA LLP

Attorneys for Richard A. Greenspan

Joseph J Manna, Esq.

42 Delaware Ave., Suite 120

Buffalo, New York 14202

(716) 849-1333